

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Raquel Velasquez	Team: Squad #12	CCRB Case #: 201608016	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/13/2016 11:40 AM	Location of Incident: § 87(2)(b) [REDACTED] § 87(2)(b)	Precinct: 48	18 Mo. SOL 3/13/2018	EO SOL 3/13/2018	
Date/Time CV Reported Tue, 09/13/2016 4:20 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/19/2016 10:53 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Zachery Zinaman	16519	960081	048 PCT
2. POM Harold Mejia	09694	955178	048 PCT
3. POM Andres Zambrano	13633	952365	048 PCT
4. Officers			Unknown
5. An officer			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. Maria Franco		344493	780- SS Division
2. David Ruiz		336780	780- SS Division
3. Moore Blair		336146	780--SS Division

Officer(s)	Allegation	Investigator Recommendation
A.POM Harold Mejia	Force: Police Officer Harold Mejia used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Zachery Zinaman	Force: Police Officer Zachery Zinaman struck § 87(2)(b) [REDACTED] with an asp.	[REDACTED]
C.POM Zachery Zinaman	Force: Police Officer Zachery Zinaman struck § 87(2)(b) [REDACTED] with an asp.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
D.POM Zachery Zinaman	Force: Police Officer Zachery Zinaman struck § 87(2)(b) with an asp.	
E.POM Zachery Zinaman	Force: Police Officer Zachery Zinaman struck § 87(2)(b) with an asp.	
F. Officers	Force: Officers used physical force against § 87(2)(b)	
G. An officer	Force: An officer used a chokehold against § 87(2)(b)	
H.POM Zachery Zinaman	Force: Police Officer Zachery Zinaman used physical force against § 87(2)(b)	
I.POM Zachery Zinaman	Abuse: Police Officer Zachery Zinaman threatened § 87(2)(b) with the use of force.	
J.POM Zachery Zinaman	Abuse: Police Officer Zachery Zinaman threatened individuals with the use of force.	
K.POM Andres Zambrano	Abuse: Police Officer Andres Zambrano threatened § 87(2)(b) with the use of force.	
L.POM Andres Zambrano	Abuse: Police Officer Andres Zambrano threatened individuals with the use of force.	
M.POM Andres Zambrano	Abuse: Police Officer Andres Zambrano threatened § 87(2)(b) with the use of force.	
N.POM Andres Zambrano	Discourtesy: Police Officer Andres Zambrano spoke discourteously to § 87(2)(b)	

Case Summary

On September 13, 2016, Sergeant Anassa Hutchinson, from the 48th Precinct, called IAB and reported a prisoner injury on behalf of § 87(2)(b). The complaint was referred to the CCRB and was received on September 19, 2016. On September 18, 2016, § 87(2)(b) filed a duplicate complaint with the CCRB via the online website on his own and § 87(2)(b)'s behalf.

On September 13, 2016, at approximately 11:40 a.m., Police Officer Zachery Zinaman and Police Officer Harold Mejia, from the 48th Precinct, responded to a radio run of an emotionally disturbed person at one of the three schools located at § 87(2)(b) in the Bronx (**Board Review 20**). Simultaneously, a fight between two students, which was handled by school administrators, ensued in the school cafeteria. PO Zinaman and PO Mejia redirected to the cafeteria, and they called for additional units. PO Andres Zambrano, from the 48th Precinct, and additional unidentified officers responded. The following allegations resulted:

PO Mejia brought § 87(2)(b) to the floor (**Allegation A**). PO Zinaman struck § 87(2)(b) and § 87(2)(b) with an asp (**Allegations B, C, D, and E**). Unidentified officers allegedly punched and kicked § 87(2)(b) (**Allegation F**). An unidentified officer allegedly used a chokehold on § 87(2)(b) (**Allegation G**). PO Zinaman pushed § 87(2)(b) (**Allegation H**). PO Zinaman pointed his asp at § 87(2)(b) and unidentified individuals (**Allegations I and J**). PO Zambrano pointed his Taser at § 87(2)(b) and unidentified individuals (**Allegations K, L, and M**). PO Zambrano allegedly told § 87(2)(b) “Shut the fuck up, motherfucker” (**Allegation N**).

§ 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), and § 87(2)(b) were arrested and charged with resisting arrest, riot in the second degree, and disorderly conduct (unreasonable noise and fighting/violent behavior) as a result of this incident (**Board Review 01**).

This case is being submitted after the 90-day benchmark because of delays in identifying, locating, and interviewing civilians.

Video footage of this incident was obtained from a NYC DOE surveillance camera at § 87(2)(b). The video does not have audio (**Board Review 02 and 03**).



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§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of June 1, 2017, a Notice of Claim has not been filed in regards to this incident (**Board Review 04**).

- OCA does not have any criminal conviction histories for § 87(2)(b) and § 87(2)(b) (Board Review 05).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by and involving § 87(2)(b) and § 87(2)(b) (Board Review 06).
- Police Officer Zachery Zinaman has been a member of the service for one year and there are no substantiated CCRB allegations against him. This is PO Zinaman's first CCRB complaint.
- Police Officer Harold Mejia has been a member of the service for three years and there are no substantiated CCRB allegations against him. This is PO Mejia's first CCRB complaint.
- Police Officer Andres Zambrano has been a member of the service for five years and there are no substantiated CCRB allegations against him.

Findings and Recommendations

Explanation of Subject Officer Identification

Allegations F and G were pled against officers because the investigation was unable to identify the subjects of these allegations for several reasons. § 87(2)(b) stated that approximately nine officers approached him. Officers grabbed § 87(2)(b) from all over his body and he fell to the floor. The officers then threw themselves on him. One of the officers (described as a white male, about 5 feet tall, and with a chubby build) punched § 87(2)(b) in the stomach approximately six times. Another officer, who § 87(2)(b) did not see because his view was obstructed, kicked him four times in the ribs. § 87(2)(b) sustained bruises in his stomach and back, but he did not obtain medical treatment (Board Review 10).

§ 87(2)(b) stated that he was with § 87(2)(b) when officers approached them. Eight to ten officers, who he could not describe, grabbed § 87(2)(b) by his arms, neck, and feet. § 87(2)(b) also alleged that PO Zambrano approached him from behind, placed his right forearm around his neck, and pulled him back five steps. PO Zambrano then placed § 87(2)(b) against a wall and told him not to move (Board Review 11).

The video footage shows officers and students amass in the center of the camera angle (between 04:46 and 04:56). Multiple unidentified officers surround § 87(2)(b) and bring him to a corner. The officers and § 87(2)(b) then go down to the floor (at approximately 04:49). The camera angle does not capture the alleged force. Simultaneously, an unidentified male officer places his arm around § 87(2)(b) neck and pushes him forward. PO Zambrano then approaches § 87(2)(b) from behind and grabs § 87(2)(b) arms. As PO Zambrano does this, a school safety officer places his arm around § 87(2)(b) neck (Board Review 02 and 03).

The event package shows that officers from the 48th Precinct, 46th Precinct, and SRG 2 acknowledged the call requesting additional units (Board Review 20). PO Zinaman, PO Mejia, and PO Zambrano denied punching or kicking § 87(2)(b) or seeing any officer doing so, and they were also unable to identify the officer who placed their arm on § 87(2)(b) neck (Board Review 20).

Allegation A: Force- Police Officer Harold Mejia used physical force against § 87(2)(b)

§ 87(2)(b) a dean at § 87(2)(b) stated that he was in the cafeteria supervising the lunch period. There were other school staff and school safety agents (SSA) present. There were between 200 and 300 students in the cafeteria. Two students, § 87(2)(b) and § 87(2)(b) § 87(2)(b) had a verbal altercation that did not become physical because teachers stepped in before it could. § 87(2)(b) § 87(2)(b) was removed from the cafeteria. The rest of the students in the cafeteria were rowdy, moving around, and trying to calm each other down, but § 87(2)(b) § 87(2)(b) believed the situation was under control. § 87(2)(b) § 87(2)(b) approached § 87(2)(b) § 87(2)(b) to escort him out and they walked towards the main entrance of the cafeteria. SSA Maria Franco escorted § 87(2)(b) § 87(2)(b) one of § 87(2)(b) § 87(2)(b)'s friends. § 87(2)(b) § 87(2)(b) was agitated, stating that the situation was not fair and moving his arms around, but he was compliant while walking. § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) were approximately twenty yards away from the door when PO Zinaman and PO Mejia entered the cafeteria. § 87(2)(b) § 87(2)(b) became more nervous and attempted to run away. PO Mejia told § 87(2)(b) § 87(2)(b) to calm down, but § 87(2)(b) § 87(2)(b) pulled away. PO Mejia then grabbed § 87(2)(b) § 87(2)(b) and pinned him against the floor. § 87(2)(b) § 87(2)(b) fell on his right side (**Board Review 07**).

§ 87(2)(b) § 87(2)(b) who only provided a phone statement to the investigation, did not mention that he was brought to the floor (**Board Review 08**).

§ 87(2)(b) § 87(2)(b) the principal of § 87(2)(b) § 87(2)(b) stated that she initially did not know why officers responded to the cafeteria. After the incident, she learned that a dean from one of the three schools located in the building called the police without consulting with her or anyone from her staff. § 87(2)(b) § 87(2)(b) saw PO Mejia and § 87(2)(b) § 87(2)(b) tussling, but she could not describe what occurred between them. She then saw § 87(2)(b) § 87(2)(b) fall to the floor, but she did not see how this occurred (**Board Review 16**).

SSA Moore stated that after the verbal altercation between § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) he grabbed one of the students and took him outside of the cafeteria. SSA Moore found PO Zinaman and PO Mejia outside handling a separate incident. The officers took the student from SSA Moore and SSA Moore returned to the cafeteria. The students in the cafeteria were irate and rushed to the door. PO Zinaman and PO Mejia re-entered the cafeteria and grabbed § 87(2)(b) § 87(2)(b) who was trying to get passed SSA Moore. § 87(2)(b) § 87(2)(b) was on the floor, but SSA Moore did not see when this occurred because he was dealing with other students (**Board Review 22**).

SSA Franco stated that she and § 87(2)(b) § 87(2)(b) were on their way out of the cafeteria, when PO Mejia and PO Zinaman entered. PO Mejia and PO Zinaman ran past SSA Franco and brought § 87(2)(b) § 87(2)(b) to the floor, but she did not see how the officers did this (**Board Review 21**).

§ 87(2)(b) § 87(2)(b) stated that he walked behind § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) because he wanted to accompany § 87(2)(b) § 87(2)(b) PO Zinaman and PO Mejia arrived and PO Zinaman took out an asp upon entering the cafeteria. The officers said they were going to take § 87(2)(b) § 87(2)(b) § 87(2)(b) became nervous and tried walking away, and said that the officers were not going to take him. § 87(2)(b) § 87(2)(b) and a school safety agent tried to grab § 87(2)(b) § 87(2)(b) and

calm him down. § 87(2)(b) and § 87(2)(b) were on the floor, but § 87(2)(b) did not how this occurred **(Board Review 09)**.

The video evidence shows § 87(2)(b) being escorted out of the cafeteria toward the exit in the upper right corner (00:01 and 00:08). There are several students milling about. As he approaches the door, two uniformed officers enter through the door frame (00:09). § 87(2)(b) moves over to the left of the door (00:10-00:12). § 87(2)(b) moves to the left along with § 87(2)(b) and appears to hold onto him (00:10-00:12). § 87(2)(b)'s limb movements are unclear. PO Mejia approaches and grabs § 87(2)(b) and they then go to the floor (00:12-00:13). PO Zinaman enters the door frame running and disappears behind the crowd (00:17-00:19) **(Board Review 02 and 03)**.

PO Mejia and PO Zinaman stated that they responded to the incident location for a call regarding an emotionally disturbed person. They handled the job and on their way out, they were approached by a black female, who identified herself as a principal, and stated that there was a “big fight” in the cafeteria and that school safety agents needed assistance. PO Mejia stated that he could feel rumbling coming from the cafeteria and heard chairs moving as they walked towards the cafeteria. PO Zinaman stated that he heard screams from the cafeteria **(Board Review 17 and 18)**.

PO Mejia entered the cafeteria alone and saw a crowd of approximately fifty students surrounding SSA Moore while he attempted to restrain § 87(2)(b) approximately ten feet away. PO Mejia feared for SSA Moore’s safety and attempted to assist in restraining § 87(2)(b). PO Mejia grabbed § 87(2)(b) from behind and placed him in a bear hug. § 87(2)(b) tried to get away from PO Mejia.

PO Mejia told § 87(2)(b) to stop resisting in Spanish approximately three to four times. § 87(2)(b) did not comply, so PO Mejia intentionally brought § 87(2)(b) to the floor. PO Mejia could not describe how he brought § 87(2)(b) to the floor as it occurred very quickly. § 87(2)(b) landed on his side and PO Mejia ended up on § 87(2)(b)'s stomach **(Board Review 18)**.

PO Zinaman stated that, prior to entering the cafeteria, a school safety agent exited the cafeteria with a male. Both he and PO Mejia immediately handcuffed the male, and PO Mejia entered the cafeteria. PO Zinaman and the male remained near the lobby area. Approximately two to three minutes passed and PO Zinaman became worried about PO Mejia because he had not returned. There was screaming and banging sounds coming from the cafeteria. PO Zinaman left the male with another school safety agent and he then entered the cafeteria. He stood at the doorway and observed PO Mejia and § 87(2)(b) for approximately one minute before approaching them. PO Zinaman was approximately fifteen feet away and saw PO Mejia and § 87(2)(b) facing each other while PO Mejia held onto § 87(2)(b)'s arms. PO Mejia and § 87(2)(b) then fell to the floor **(Board Review 17)**.

Patrol Guide Procedure 221-02 defines de-escalation as “taking action in order to stabilize a situation and reduce the immediacy of the threat so that more time, options, and/or resources become available... The goal is to gain voluntary compliance of the subject, when appropriate and consistent with personal safety, to reduce or eliminate the necessity to use force. The procedure

further states that an officer may apply no more than the reasonable force necessary to gain control of an arrestee (**Board Review 23**).

§ 87(2)(b), § 87(2)(g)

Allegation B: Force- Police Officer Zachery Zinaman struck § 87(2)(b) with an asp.

Allegation C: Force- Police Officer Zachery Zinaman struck § 87(2)(b) with an asp.

Allegation D: Force- Police Officer Zachery Zinaman struck § 87(2)(b) with an asp.

Allegation E: Force- Police Officer Zachery Zinaman struck § 87(2)(b) with an asp.

It is undisputed that PO Zinaman struck § 87(2)(b) with an asp. § 87(2)(b)

and § 87(2)(b) § 87(2)(b)

corroborated that PO Zinaman struck more than one person, including § 87(2)(b)

and § 87(2)(b) (**Board Review 10, 11, 12, 13, 14, and 15**).

§ 87(2)(b) stated that after PO Mejia brought § 87(2)(b) to the floor, § 87(2)(b) lay on his back and moved his arms and shoulders, and continuously kicked, attempting to get away. PO Mejia used his arms to hold § 87(2)(b) but he did not attempt to handcuff him. PO Zinaman opened an asp and repeatedly swung the asp left and right and stated, “Back up.” § 87(2)(b) covered § 87(2)(b) with his body, and told PO Mejia, “Officer, we have this under control,” and told § 87(2)(b) calm down. Do not move. Relax. Stop moving.” PO Zinaman stood less than a foot away from PO Mejia, § 87(2)(b) and § 87(2)(b) and swung his asp three or four times, striking § 87(2)(b) twice in the left abdomen. PO Zinaman did not say anything to § 87(2)(b) PO Zinaman then struck § 87(2)(b)s legs six to eight times. PO Zinaman did not say anything while striking § 87(2)(b) did not see if PO Zinaman struck anyone else with his asp, but § 87(2)(b) later stated that he had also been struck with the asp by PO Zinaman. § 87(2)(b) sustained bruises in his left abdomen (**Board Review 25**). § 87(2)(b) had an injured hand and was wore a cast (**Board Review 07**). § 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) and his private physician on § 87(2)(b). He told medical personnel that he broke up a fight in school and an officer “beat” him with a baton. He complained of pain in his left elbow and abdomen. He was diagnosed with a large one-foot linear ecchymosis (a discoloration of the skin resulting from bleeding underneath, typically caused by bruising) in his left flank (**See Medical Records**).

§ 87(2)(b) stated that PO Zinaman approached him and struck him with the asp twice in the right foot. § 87(2)(b) had pain in his foot, but he did not seek medical attention. § 87(2)(b) also stated that PO Zinaman struck § 87(2)(b) and a friend whose name he did not know with the asp (**Board Review 08**).

§ 87(2)(b) stated that PO Zinaman struck him with the asp once in his right hand. PO Zinaman continued to swing his asp and struck § 87(2)(b) and § 87(2)(b) a friend, was among the group of people surrounding PO Zinaman, § 87(2)(b) and § 87(2)(b) saw when arm holding an asp pulled back after hitting § 87(2)(b) but he did not see where on his body the asp struck. § 87(2)(b) received medical treatment at a hospital that he did not recall and his right hand remained in a cast for approximately two weeks (**Board Review 09**).

§ 87(2)(b) one of the school principals, corroborated that PO Zinaman struck § 87(2)(b) four to five times, but she did not see what PO Zinaman used to hit him. § 87(2)(b) moved around on the floor. § 87(2)(b) described the actions as “extreme” because the students were just kids (**Board Review 16**).

SSA Franco also stated that § 87(2)(b) was struck with the asp and that she did not know why this occurred. SSA Franco left the cafeteria after the first strike (**Board Review 21**).

Due to the camera angle, the video footage does not depict these allegations (**Board Review 02 and 03**).

PO Mejia stated that once on the floor, he told § 87(2)(b) who was moving his upper and lower body, several times to relax. After approximately five to seven seconds, § 87(2)(b) relaxed and PO Mejia handcuffed him. More than ten students approached PO Mejia while shouting, “No, what are you doing?” The crowd got closer and PO Mejia told them to back up, but they did not comply. PO Mejia called for additional units to respond and approximately thirty seconds later, officers arrived. PO Mejia escorted § 87(2)(b) out of the cafeteria after spending a period of time in the cafeteria that he could not recall. PO Mejia did not remember if he removed his asp during the incident and he did not see if PO Zinaman or any other officer removed their asp during the incident. PO Mejia did not see if PO Zinaman struck any individuals in the arms or leg with his asp (**Board Review 18**).

PO Zinaman stated that after PO Mejia and § 87(2)(b) fell to the floor, a group of approximately fifty to seventy students surrounded PO Mejia and § 87(2)(b). He did not see if the group of students did anything else and he did not recall how far away they stood. § 87(2)(b) screamed and moved his legs and arms around a lot, appearing to resist arrest, but he did not strike PO Mejia. PO Zinaman did not see § 87(2)(b) strike PO Mejia at any point during the interaction. He did not recall if PO Mejia issued any commands to § 87(2)(b). However, PO Zinaman became worried about PO Mejia’s safety because they were both on the floor and § 87(2)(b) was resisting arrest, so he approached to assist. PO Zinaman displayed his asp and struck § 87(2)(b) approximately three times, consecutively, in the right leg. PO Zinaman did not issue § 87(2)(b) any commands prior to striking him with the asp. § 87(2)(b) reacted by moving his legs. PO Zinaman then lifted § 87(2)(b) up, and he and PO Mejia escorted § 87(2)(b) out of the cafeteria and handcuffed him. PO Zinaman did not recall striking anyone else with his asp. He did not recall if anyone interfered with § 87(2)(b)’s arrest (**Board Review 17**).

Given the several civilian statements, the photographs of § 87(2)(b)’s injuries, and PO Zinaman’s own acknowledgement of striking § 87(2)(b) § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Patrol Guide Procedure 221-02 states that an officer may apply no more than the reasonable force necessary to gain control (**Board Review 23**).

§ 87(2)(b), § 87(2)(g)

Allegation F: Force- Officers used physical force against § 87(2)(b)

Allegation G: Force- An officer used a chokehold against § 87(2)(b)

As noted in the Explanation of Subject Officer Identification, the investigation was unable to identify the officers who punched and kicked § 87(2)(b) and placed § 87(2)(b) in a chokehold. § 87(2)(g)

Allegation H: Force- Police Officer Zachery Zinaman used physical force against § 87(2)(b)

Allegation I: Abuse of Authority- Police Officer Zachery Zinaman threatened § 87(2)(b) with the use of force.

Allegation J: Abuse of Authority- Police Officer Zachery Zinaman threatened individuals with the use of force.

Allegation K: Abuse of Authority- Police Officer Andres Zambrano threatened § 87(2)(b) with the use of force.

Allegation L: Abuse of Authority- Police Officer Andres Zambrano threatened individuals with the use of force.

Allegation M: Abuse of Authority- Police Officer Andres Zambrano threatened § 87(2)(b) with the use of force.

The video evidence shows a mass of officers and students break into three different groups near the center (between 04:46 and 04:56). PO Zambrano holds § 87(2)(b) in the foreground and handcuffs him in the bottom right-hand corner (between 04:53 and 05:08). PO Zinaman then stands in the foreground and extends his asp and puts it away (between 04:54 and 05:04). The officers and students mill about without any significant action being taken. In the center, § 87(2)(b) walks by and PO Zinaman pushes him in the back (between 05:15 and 05:17). In the center, PO Zinaman removes his asp again and holds it on his side (05:18). PO Zinaman, a female officer, and PO Zambrano appear to be yelling at the crowd near the left side of the frame (between 05:19 and 05:21). PO Zinaman then points his asp at the crowd and PO Zambrano removes his Taser and also points it at the crowd (between 05:23 and 05:27). The students begin to disperse thereafter. In the bottom right of the frame, PO Zambrano stays with § 87(2)(b) and points the Taser at § 87(2)(b) face (between 5:41 and 05:42). PO Zambrano removes § 87(2)(b) from the cafeteria while still carrying his Taser (between 05:55 and 06:05) (**Board Review 02 and 03**).

§ 87(2)(b) stated that he was walking when PO Zinaman pushed him twice in his left shoulder without saying anything. § 87(2)(b) asked officers why they hit his friend and why he had been pushed. PO Zambrano stood approximately three to four feet away from § 87(2)(b). § 87(2)(b) took out a Taser, and pointed the Taser at him (**Board Review 12**).

§ 87(2)(b) stated that PO Zambrano placed him against a wall, told him not to move, and handcuffed him. § 87(2)(b) complied. PO Zambrano stood approximately one step away from § 87(2)(b). There was a group of people around PO Zambrano and § 87(2)(b). PO Zambrano pointed a Taser towards the group of people and then pointed the Taser at § 87(2)(b) upper body (**Board Review 11**).

PO Zinaman stated that right after striking § 87(2)(b) with his asp and before escorting him out of the cafeteria, a group of four males surrounded him in an “aggressive and hostile manner,” by yelling, moving their hands a lot, and pointing at him. PO Zinaman did not understand what they yelled. The males stood five to ten feet away. PO Zinaman turned his attention towards the males to safeguard PO Mejia and § 87(2)(b) and he waved his asp at them, and told them to get back. He did not recall how many times he waved his asp, but it was two to three times. The group of four males complied. PO Zinaman recalled a second fight between students occurring, but it was smaller and he did not see what occurred because he was approximately twenty feet away. PO Zinaman took his asp out a second time when additional officers arrived and the scene became hectic. However, PO Zinaman immediately put it away thereafter. PO Zinaman did not recall pushing anyone, and he did not recall seeing any officer doing so.

During his CCRB interview, PO Zinaman was shown video footage of the incident. He is depicted pushing § 87(2)(b). PO Zinaman stated that § 87(2)(b) was among the group of males who earlier acted in a hostile manner towards him. PO Zinaman believed § 87(2)(b) looked at him, but he did not know his demeanor. § 87(2)(b) might have made statements in Spanish. PO Zinaman recalled pushing § 87(2)(b) and then telling him to get back because he wanted § 87(2)(b) to get away from the officers and the crowd. He did not recall if § 87(2)(b) backed up. PO Zinaman is depicted pointing his asp towards a group of students. PO Zinaman stated that he waved the asp towards the crowd and told them to get back because he was by himself and the rest of the officers were behind him and focused on other groups. PO Zinaman added that he did not point the asp towards anyone specific. PO Zinaman identified two of the people in the crowd as part of the group of males that approached him earlier (**Board Review 17**).

PO Zambrano, who responded to the call requesting additional units, stated that he entered the cafeteria and approached a fight between six or seven students (including § 87(2)(b) that broke out towards the back of the cafeteria. The students dispersed as the officers approached. PO Zambrano grabbed § 87(2)(b) arms from behind, handcuffed him, and placed him against a wall. § 87(2)(b) asked why he was being arrested. Then, approximately six to seven males surrounded PO Zambrano and other officers asking, “Why are you arresting him? Why are you taking him? This is not fair.” The males stood about five feet away and attempted to get closer. PO Zambrano feared for his and the other officers’ safety because they were not “kids,” they were “17 to 18-year old people.” PO Zambrano displayed his Taser and pointed it straight out in

the direction of the males and told them to get back. PO Zambrano did not tell the males to get back prior to displaying his Taser and he did not recall if other officers told the males to get back. However, when told to get back, the males complied. PO Zambrano then holstered his Taser. PO Zambrano did not intend on deploying the Taser. He only wanted the males to back up. PO Zambrano did not recall pointing the Taser at § 87(2)(b) or anyone else's face.

During his CCRB interview, PO Zambrano was shown video footage of the incident. He confirmed the moment that he pointed his Taser towards the males. He is depicted pointing his Taser at § 87(2)(b). PO Zambrano stated that he did not know what happened. PO Zambrano stated that he held § 87(2)(b) against the wall with his left hand and held the Taser in his right hand. He explained that § 87(2)(b) kept asking why he was in handcuffs and why he was being arrested. PO Zambrano told § 87(2)(b) to remain calm and used his right hand while talking to him because it was the only hand he had free. PO Zambrano added that “we all have motions of pointing,” and that he would have pointed his finger towards § 87(2)(b) while talking to him if he did not have the Taser in his hand. PO Zambrano further stated that his finger was not on trigger of the Taser and that he did not have any intention in deploying it. He further stated that he did not know if he pointed the Taser at § 87(2)(b) face (**Board Review 19**).

Patrol Guide Procedure 221-02 states that an officer may apply no more than the reasonable force necessary to gain control (**Board Review 23**). According to Patrol Guide Procedure 221-08, a conducted electrical weapon should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons present. It is prohibited to use a conducted electrical weapon in situations that do not require the use of physical force. It is also prohibited to use a conducted electrical weapon on persons who passively resist (**Board Review 24**).

§ 87(2)(b), § 87(2)(g)

Allegation N: Discourtesy- Police Officer Andres Zambrano spoke discourteously to

§ 87(2)(b)

§ 87(2)(b) alleged that, while being held against the wall by PO Zambrano, he attempted to explain that he was just trying to grab his friend. PO Zambrano allegedly responded, “Shut the fuck up, motherfucker,” (**Board Review 11**).

PO Zambrano did not recall saying to § 87(2)(b) “Shut the fuck up, motherfucker” (**Board Review 19**).

§ 87(2)(b), § 87(2)(g)

Squad: 12

Investigator: _____ Raquel Velasquez _____
Signature Print Date

Squad Leader: _____ Nicholas Carayannis _____
Title/Signature Print Date